

---

---

# HOUSE BILL No. 1728

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3-1-3.5; IC 6-3-1-11.

**Synopsis:** Revenue update. Indicates that the term "Internal Revenue Code" refers to the federal Internal Revenue Code as it existed on January 1, 2003. Requires bonus depreciation to be added back to federal adjusted gross income for purposes of determining taxable state adjusted gross income.

**Effective:** January 1, 2003 (retroactive).

---

---

## Crawford, Cochran

---

---

January 21, 2003, read first time and referred to Committee on Ways and Means.

---

---

C  
o  
p  
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1728

---

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.192-2002(ss),  
2       SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3.5. When used in this  
4       article, the term "adjusted gross income" shall mean the following:

5       (a) In the case of all individuals, "adjusted gross income" (as  
6       defined in Section 62 of the Internal Revenue Code), modified as  
7       follows:

8               (1) Subtract income that is exempt from taxation under this article  
9               by the Constitution and statutes of the United States.

10              (2) Add an amount equal to any deduction or deductions allowed  
11              or allowable pursuant to Section 62 of the Internal Revenue Code  
12              for taxes based on or measured by income and levied at the state  
13              level by any state of the United States.

14              (3) Subtract one thousand dollars (\$1,000), or in the case of a  
15              joint return filed by a husband and wife, subtract for each spouse  
16              one thousand dollars (\$1,000).

17              (4) Subtract one thousand dollars (\$1,000) for:



C  
o  
p  
y

- 1 (A) each of the exemptions provided by Section 151(c) of the
- 2 Internal Revenue Code;
- 3 (B) each additional amount allowable under Section 63(f) of
- 4 the Internal Revenue Code; and
- 5 (C) the spouse of the taxpayer if a separate return is made by
- 6 the taxpayer and if the spouse, for the calendar year in which
- 7 the taxable year of the taxpayer begins, has no gross income
- 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
- 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 12 Revenue Code for taxable years beginning after December 31,
- 13 1996; and
- 14 (B) five hundred dollars (\$500) for each additional amount
- 15 allowable under Section 63(f)(1) of the Internal Revenue Code
- 16 if the adjusted gross income of the taxpayer, or the taxpayer
- 17 and the taxpayer's spouse in the case of a joint return, is less
- 18 than forty thousand dollars (\$40,000).
- 19 This amount is in addition to the amount subtracted under
- 20 subdivision (4).
- 21 (6) Subtract an amount equal to the lesser of:
- 22 (A) that part of the individual's adjusted gross income (as
- 23 defined in Section 62 of the Internal Revenue Code) for that
- 24 taxable year that is subject to a tax that is imposed by a
- 25 political subdivision of another state and that is imposed on or
- 26 measured by income; or
- 27 (B) two thousand dollars (\$2,000).
- 28 (7) Add an amount equal to the total capital gain portion of a
- 29 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 30 Internal Revenue Code) if the lump sum distribution is received
- 31 by the individual during the taxable year and if the capital gain
- 32 portion of the distribution is taxed in the manner provided in
- 33 Section 402 of the Internal Revenue Code.
- 34 (8) Subtract any amounts included in federal adjusted gross
- 35 income under Section 111 of the Internal Revenue Code as a
- 36 recovery of items previously deducted as an itemized deduction
- 37 from adjusted gross income.
- 38 (9) Subtract any amounts included in federal adjusted gross
- 39 income under the Internal Revenue Code which amounts were
- 40 received by the individual as supplemental railroad retirement
- 41 annuities under 45 U.S.C. 231 and which are not deductible under
- 42 subdivision (1).

C  
o  
p  
y



(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

**(19) Add an amount equal to any additional first-year depreciation allowance (bonus depreciation) allowed under Section 168(k) of the Internal Revenue Code in computing the taxpayer's federal adjusted gross income.**

C  
o  
p  
y



(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

**(5) Add an amount equal to any additional first-year depreciation allowance (bonus depreciation) allowed under Section 168(k) of the Internal Revenue Code in computing the taxpayer's federal adjusted gross income.**

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

**(5) Add an amount equal to any additional first-year depreciation allowance (bonus depreciation) allowed under Section 168(k) of the Internal Revenue Code in computing the taxpayer's federal adjusted gross income.**

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

C  
o  
p  
y



(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

**(5) Add an amount equal to any additional first-year depreciation allowance (bonus depreciation) allowed under Section 168(k) of the Internal Revenue Code in computing the taxpayer's federal adjusted gross income.**

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) ~~reduced by:~~ **adjusted as follows:**

(1) **Subtract** income that is exempt from taxation under this article by the Constitution and statutes of the United States. ~~and~~

(2) **Subtract** an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

**(3) Add an amount equal to any additional first-year depreciation allowance (bonus depreciation) allowed under Section 168(k) of the Internal Revenue Code in computing the taxpayer's federal adjusted gross income.**

SECTION 2. IC 6-3-1-11, AS AMENDED BY P.L.192-2002(ss), SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~2002~~. **2003.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2002~~. **2003**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January



1, ~~2002~~, **2003**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2002~~, **2003**, that is effective for any taxable year that began before January 1, ~~2002~~, **2003**, and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 3. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]

**IC 6-3-1-3.5 and IC 6-3-1-11, both as amended by this act, apply only to taxable years beginning after December 31, 2002.**

SECTION 4. **An emergency is declared for this act.**

C  
o  
p  
y

